

IAP20 Rec'd PTO 09 JAN 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

MADAUS et al.

Atty. Ref.: 4750-34

Serial No. New National Phase of
PCT/EP2004/007599

TC/A.U.: Unassigned

Filed: January 9, 2006

Examiner: Unassigned

For: RESPIRATORY MASK ARRANGEMENT AS WELL AS HEADBAND
ARRANGEMENT AND RESPIRATORY GAS EVACUATION DEVICE
FOR A RESPIRATORY MASK

* * * * *

January 9, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT

Listed on accompanying Form PTO/SB/08a is information that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. At least one of the boxes below applies to the present application:

1. ☒ This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No statement under 37 C.F.R. § 1.97(e) or fee is required.

a. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(c)

In the event a first Office Action has been mailed prior to filing of the present Information Disclosure Statement and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat

the present paper as a submission under 37 C.F.R. § 1.97(c) and charge the undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

b. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(e)(1)

In the event a first Office Action has been mailed prior to the filing of the present Information Disclosure Statement, and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(e)(1) in that the undersigned hereby states that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b.1. ☐ Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.704(d).

c. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(e)(2)

In the event a first Office Action has been mailed prior to the filing of the present Information Disclosure Statement, and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(e)(2) in that the undersigned hereby states that no item of information in this Information Disclosure Statement was cited in a communication from a

foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

2. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1). Contingent Request Under 37 C.F.R. § 1.97(d). In the event a Notice of Allowance or a Final Rejection has been mailed prior to filing this Information Disclosure Statement, the Office is authorized to treat this as a submission under 37 C.F.R. 1.97(d) and charge the undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

a.1. ☐ Patent Term Adjustment

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b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after

making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

c. ☐ Attached is our check in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(p).

3. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee 37 C.F.R. § 1.97(d). It is hereby requested that the Information Disclosure Statement be considered. Attached is our check in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(i).

a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

a.1. ☐ Patent Term Adjustment

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b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

4. ☐ Relevance of the non-English language document(s) is discussed in the present specification.

5. ☐ The document(s) was/were cited in a corresponding foreign application. An English language version of the foreign search report or official action is attached for the Examiner's information. See MPEP § 609.

a. ☐ U.S. Patent No. _____ is indicated in the foreign search report or Official Action as being in the same patent family and/or the English-language equivalent of _____ listed on the attached foreign search report.

6. ☐ A concise explanation of the relevance of the non-English language document(s) appears below:

7. ☐ Copies of the documents were cited by or submitted to the Office in Application No. _____, filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

8. ☐ The publication date (e.g., month or year) of at least one of the listed documents is not available. For each document in this category, the Office is requested to assume that the year of publication of each listed document is earlier than the effective U.S. filing date and/or any foreign priority date.

9. ☐ The publication date of at least one document is listed on the attached PTOPTO/SB/08a based on information presently available to the undersigned. However, each listed publication date should not be construed as an admission that the information was actually published on the date indicated, and the right to challenge each listed publication date is expressly reserved by Applicant(s).

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTOPTO/SB/08a, and to indicate in the official file wrapper of this patent application that the documents have been considered.

MADAUS et al.
New National Phase of PCT/EP2004/007599

10/563857

IAP20 Rec'd PCT/PTO 09 JAN 2006

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 14-1140 referencing docket number 4750-34.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



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INFORMATION DISCLOSURE
CITATION

ATTY. DOCKET NO.

SERIAL NO.

4750-34

New National Phase of
PCT/EP2004/007599

APPLICANT

MADAUS et al.

(Use several sheets if necessary)

FILING DATE

TC/A.U.

January 9, 2006

Unassigned

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	US-2003-0164170-A1	09/2003	DREW et al.			
	US-2005-0092326-A1	05/2005	DREW et al.			
	USSN 60/640,184	12/2004	HENRY et al.			
	3,291,127	12/1966	EIMER et al.			
	3,850,171	11/1974	BALL et al.			
	4,258,710	03/1981	REBER			
	4,266,540	05/1981	PANZIK et al.			
	5,065,756	11/1991	RAPOPORT			
	5,117,819	06/1992	SERVIDIO et al.			
	5,148,802	09/1992	SANDERS et al.			
	5,477,852	12/1995	LANDIS et al.			
	5,560,354	10/1996	BERTHON-JONES et al.			
	5,657,752	08/1997	LANDIS et al.			
	5,937,851	08/1999	SEROWSKI et al.			
	6,112,746	09/2000	KWOK et al.			
	6,119,693	09/2000	KWOK et al.			
	6,192,886	02/2001	RUDOLPH			
	6,561,190	05/2003	KWOK			
	6,561,191	05/2003	KWOK			
	6,581,594	06/2003	DREW et al.			
	6,584,976	07/2003	JAPUNTICH et al.			
	6,823,865	11/2004	DREW et al.			

FOREIGN PATENT DOCUMENTS

DOCUMENT	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES NO
AU 712236	04/1999	AUSTRALIA			
EP 0 697 225 A2	02/1996	EUROPE			
EP 1 314 445 A	05/2003	EUROPE			
WO 01/32250 A	05/2001	PCT			
EP 1 027 905 A	08/2000	EUROPE			

OTHER DOCUMENTS (including Author, Title, Date, Pertinent pages, etc.)

	Instruction Brochure for "E-vent-N" August 1997, ©Dräger Medizintechnik GmbH, 2 pages
	European Search Report for PCT/EP2004/007599, mailed December 17, 2004, 10 pages

*Examiner

Date Considered

Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application.